

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-AT-397
)	
Crown Castle GT Company LLC)	NAL/Acct. No.200332480020
Owner of Antenna Structure #1037111 in)	
Blountville, Tennessee)	FRN 0005-7936-82
Canonsburg, Pennsylvania)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: March 13, 2003

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Crown Castle GT Company LLC (“Crown Castle”), owner of antenna structure #1037111, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.51(b) of the Commission's Rules (“Rules”).¹ Specifically, we find Crown Castle apparently liable for failure to exhibit required obstruction lighting during daytime hours.

II. BACKGROUND

2. On October 29 and 30, 2002, the antenna structure associated with FCC antenna structure registration (“ASR”) #1037111 and located near Blountville, Tennessee, was inspected by an agent of the Commission’s Atlanta Field Office (“Atlanta Office”). At the time of each inspection, 1:30 p.m. on July 29, 2002, and 3:30 p.m. on July 30, 2002, the unpainted structure had no obstruction lighting in operation.

3. On October 30, 2002, an agent of the Atlanta Office determined from the Commission ASR database that antenna structure #1037111 was registered to Crown Castle and that the registration included requirements to maintain medium intensity obstruction lighting during daytime hours. The agent telephoned Crown Castle’s network operations center and reached an agent who checked on the light outage. The Crown Castle agent reported that there had been no alarms or lighting outages reported for the structure. The FCC agent telephoned the nearest Flight Service Station of the Federal Aviation Administration (“FAA”), which verified that it had received no report of a light outage for this antenna structure.

4. On October 30, 2002, a Crown Castle supervisor contacted the agent of the Atlanta Office via telephone. According to the supervisor, the structure lighting is monitored by an automatic alarm system, which had indicated no alarms; however, a technician was being dispatched to repair the structure lighting

¹ 47 C.F.R. § 17.51(b).

and a light outage report had also been filed with the FAA.

5. On October 31, 2002, the Crown Castle supervisor reported to the Atlanta Office agent that the technician sent to the structure for repairs of the lighting had noted that the lights were operating in reduced nighttime intensity at the time of his visit during the daytime, and that he had re-positioned the lighting photocell to force the lights into the daytime intensity mode.

III. DISCUSSION

6. Section 17.51(b) of the Rules requires that all medium intensity obstruction lighting be exhibited continuously unless otherwise specified. Crown Castle's antenna structure #1037111 is required to exhibit medium intensity obstruction lighting during daylight hours. At the times of inspection during daylight hours on October 29 and 30, 2002, no obstruction lighting was observed on Crown Castle's antenna structure #1037111. Crown Castle had not notified the FAA of the light outage.²

7. Based on the evidence before us, we find Crown Castle willfully³ and repeatedly⁴ violated Section 17.51(b) of the Rules by failing to continuously exhibit medium intensity obstruction lighting during daylight hours.

8. Pursuant to Section 1.80(b)(4) of the Rules,⁵ the base forfeiture amount for failure to comply with prescribed antenna structure lighting is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the factors listed above, this case warrants a forfeiture of \$10,000.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections

² The owner of any registered antenna structure must report immediately to the nearest flight service station of the FAA any observed or otherwise known extinguishment or improper functioning of any flashing obstruction light not corrected within 30 minutes. See 47 C.F.R. § 17.48(a).

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

0.111, 0.311 and 1.80 of the Rules,⁸ Crown Castle GT Company LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.51(b) of the Rules by failing to continuously exhibit medium intensity obstruction lighting during daylight hours.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Crown Castle GT Company LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

12. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁹ See 47 C.F.R. § 1.1914.

15. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Crown Castle GT Company LLC, 2000 Corporate Drive, Canonsburg, PA 15317.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau